GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:2717
ANSWERED ON:18.03.2008
AMENDMENT IN CUSTODIAL DEATH
Adsul Shri Anandrao Vithoba;Gaikwad Shri Eknath Mahadeo;Mane Smt. Nivedita;Yadav Shri Anirudh Prasad (Sadhu);Yaskhi Shri Madhu Goud

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the Supreme Court has suggested the Government to amend the law to deal with custodial deaths as reported in the Hindu dated March 7, 2008;

(b) if so, the reaction of the Government thereto and the steps taken by the Government in this regard;

(c) whether the Law Commission has also recommended the Government to amend the Evidence Act to allow the trial court to presume the policeman guilty of causing injuries to the accused under his custody; and

(d) if so, the steps taken by the Government in this regard?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS(SMT. RADHIKA V. SELVI)

(a) to (d): The news item dated 07th March, 2008 appearing in The Hindu, Delhi Edition refers to the judgement of the Delhi High Court regarding death sentence of one Shri Mahender Kumar. In the said Judgement, a reference has been made to an observation of Supreme Court in the State of Uttar Pradesh Vs. Ram Sagar and others' case, that there is a need to amend the law appropriately so that policemen who commit atrocities on person who are in their custody are not allowed to escape.

The Law Commission of India in its 152nd Report on 'Custodical Crimes' recommended, inter alia, to make consequential amendments to Indian Evidence Act, 1872 to provide that in case of custodial death the onus of proving of innocence may be fixed on the police. However, in its 154th Report which is a comprehensive review of all its earlier reports including the 152nd Report, the Commission did not recommend the above said amendment.